

10 August 2017

Mark Fitt
Committee Secretary
Senate Economics Legislation Committee
PO Box 6100
Parliament House
Canberra ACT 2600

By email: economics.sen@aph.gov.au

Dear Mr Fitt

Inquiry into Corporations Amendment (modernisation of members registration) Bill 2017

I would be grateful for the opportunity to make this submission to the Senate Inquiry in favour of the proposed amendment.

I believe my background as a Chartered Accountant, Tax Agent, IT consultant and entrepreneur affords a perspective that can assist the inquiry in two main ways:

1. Provide some practical suggestions to overcome potential issues with the proposal as currently drafted, and
2. Illustrate, by way of current examples, how the CPA issues outlined in the explanatory memoranda are not unique to that organisation but shared by other member based organisations such as Chartered Accountants Australia New Zealand (CAANZ). The examples discussed below are:
 - i. Misleading disclosures by the CAANZ board to members in relation to the appointment of its new CEO
 - ii. Deliberately hiding benefits from members under the member benefits programme
 - iii. Hiding the availability of significant fee concessions from members.

1. Practical suggestions

a) To avoid issues relating to strict liability offence rules, the initial requirement could be amended to ensure that it only operated where an email address has been provided to the organisation. Transitional arrangements can address matters such as

- i. allowing organisations to communicate with members to allow for the provision of alternate email address for such purposes if desired
- ii. allowing time for organisations to move towards full electronic communications in line with general community expectations

iii. providing for technology neutral communication options in due course.

b) To mitigate concerns concerning cyber security risks, allowance can be made to allow organisations to use an interposed agency to manage the actual communication desired. For example, the potential risk would only arise if the applicant intended to use the details to facilitate a communication, in which case if the desired communication is made by an independent third party, there would be little or no risk of any unintended consequences.

c) To allay potential fears of privacy concerns, it could be highlighted in the explanatory memoranda that stringent laws already operate to safeguard privacy, and that the proposed changes do not alter that position.

d) It could be envisaged that a recalcitrant organisation may attempt to subvert or thwart the intent by providing the details in paper format, so it may be advisable to specify an electronic format readable by widely available software.

2. CPA experience shared by CAANZ

In case anyone reading the explanatory memoranda gains the impression that the recent CPA experience is just an aberration relating to that organisation, I would like to share brief details of my current experience on significant matters of governance relating to CAANZ.

My chief concern is that CAANZ leadership has adopted the CPA practice of ignoring legitimate and significant issues raised by members. Instead of upholding values of transparency and full disclosure, members experience misleading communications, stonewalling and denial. A culture of belligerence seems to prevail from the board down to senior management.

This can be best illustrated by briefly outlining three current examples known to me (full details can be provided if required).

i. Misleading disclosures by the CAANZ board to members in relation to the appointment of its new CEO

Perhaps the single most important task of a board is to select a suitable chief operating officer (CEO), and this was recently attempted by the CAANZ board. My fellow members have no direct input to this process. In this regard, a communication was issued on 17 May 2017 by the board to members saying that the board was delighted and exited by the appointment of a new CEO who would "create a dynamic future for the profession" (see note 1 below). The message, signed by the chair and president, stated that the new CEO was currently the CEO of a museum in New Zealand (NZ).

This came to my attention on 25 May, when I asked (by email) the chair and president whether the new CEO was qualified as a Chartered Accountant (CA). I have yet to receive a response to that or any of the other more significant matters that subsequently came to my attention and raised with the board, including:

a) why were my fellow members not informed that the new CEO was unable to continue managing the museum and terminated his employment early apparently due to age and pressing family commitments (as was reported in the NZ press and acknowledged by the museum board at the time of resignation).

The board was asked how is it possible for a person who was not able to manage a Kiwi museum, to lead a much more complex organisation such as CAANZ, dynamically or otherwise. This is particularly an issue where it appears that he has no CA qualifications, nor a background in accounting. This is in the context of a member based organisation setting professional standards, where every single action needs to be informed by a deep affinity with member needs.

b) it also appears that the accounts prepared for the museum during the new CEO's tenure omitted to disclose inconvenient comparative figures relating to the key performance metric. In summary, if the 2015 accounts had been prepared on the same basis as the 2014 accounts before his term, then the reported 20.7% increase in visitors would instead have been 15.9%. Similarly, the 14.7% increase reported for 2016 would have been 8.7%, an exaggeration of 69%.

Another potential issue is that the accounts disclose that remuneration is based on performance principles, however both the museum and the NZ Auditor General have yet to respond to enquiries on that score. It is also relevant to mention here that the Executive Director of Audit NZ (the entity responsible for auditing the museum accounts) also sits on the CAANZ board, apparently as a non-voting member. The museum accounts are available on its website, and I have extracted relevant details as note 2 below to illustrate the fudge.

Again, I have yet to receive any comments from the board or the council on the appropriateness of our new CEO being associated with this kind of dubious (non) disclosure. It also begs the question of how the due diligence process for an accounting organisation can fail to detect such dubious reporting discernable from published accounts by an average CA in less than half an hour.

In summary, we have what appears to be an ageing man with pressing family commitments, no CA qualifications, nor a background in accounting (apart from the aforementioned dubious accounts), presented to members by the board as someone ideally suited to dynamically lead the profession into the future. Apparently, no CA qualified candidates, who pride themselves on their leadership skills, could match or better the chosen CEO.

It is appropriate to note that the main role of CA's in our society is to uphold the concepts of full, true and fair disclosure. The board guidelines emphasise upholding high ethical and moral values. Yet it appears that the exact opposite is experienced by members in practice.

I should make it clear that I have nothing personal against the new CEO, nor any reason other than stated for highlighting this issue - I am not a spurned applicant for that CEO position.

ii. Deliberately hiding benefits from members under the member benefits programme

The second current example concerns the CAANZ Affinity member benefits programme which by design keeps benefits hidden from members, apparently for many years. For example, car benefits from BMW, Mercedes, Audi etc such as free servicing have deliberately not been proactively communicated. I know from personal experience that professional benefits have also been kept hidden.

It appears that the "logic" relied upon by CAANZ here is that if BMW etc don't pay CAANZ to tell its members about the benefits, then members will be kept in the dark. However, it seems that this policy approach may not apply to CAANZ staff who appear to know about and enjoy these benefits which have been hidden from members.

The disingenuity of CAANZ management is telling here. After many complaints over the last month, including to the full board, the CAANZ has attempted to remedy the issue of hiding car benefits by including a 2-line mention buried near the end of its recent Affinity update, advising members that they need to "discover" the benefit.

This appears to sum up the CAANZ approach to serving its members. Rather than genuinely communicating a benefit apparently hidden from members for many years, they instead bury the item like the proverbial needle in a haystack, with the possible intention to be able to one day claim that it was technically "communicated".

iii. Hiding the availability of significant fee concessions from members.

A third current example is that significant fee concessions (65% - 100%) have also not been communicated to members. Instead, details are buried in obscure web pages such as "Ending your membership" - the opposite scenario of a poor member wanting to continue. The catch-22 awaiting low income members who might eventually discover the concessions is that they are only available on a prospective basis. No entitlement exists for all the years that the poor member satisfied the eligibility rules but was in the dark on the availability of the concession.

Concluding comments

How all these behaviours can happen under the watch of a CEO paid 54% more than the prime minister is another mystery.

How the board and senior management justify remaining silent begs belief given the policy stated on the CAANZ web site: "If we can't resolve your complaint straight away because it's very complex or for another reason, we'll let you know and give you a timeframe".

The few fellow CAs who share knowledge of the current situation find it disturbing. However, without the availability of the email facility under the proposed new measure, it is practically not feasible to share such concerns with all fellow CAs who would be interested. Unlike with the CPA, the media has shown little interest in reporting these perhaps less

exciting issues. To borrow a phrase used by the CPA as its logo, the proposed measure would allow members to "BE HEARD".

What is particularly galling about CPA-like experiences is that heroes such as Mr Brett Stevenson, agitating on behalf of fellow members, are not compensated for their time and costs, whereas the nefarious leadership team use significant resources provided by members to pursue and defend their activities contrary to member best interests. And then when all is said and done, the baddies disappear into the sunset, not in any way punished or fined but instead apparently legally rewarded with a truck-load of members' money.

As a broad closing comment, there seems little recognition of a fundamental law of organisational behaviour, being that over time, any organising body will tend to prioritise its own needs over those of the people it ostensibly represents. The empirical evidence for this is overwhelming in any area you care to examine (eg politics, corporations, religion etc).

The proposed amendment is a worthwhile step in heeding that law, and demonstrates leadership for organising bodies to do likewise.

Yours sincerely

Gerald Jaworski, B Ec. (Syd), CA, CTA, Tax Agent

Note 1



Leadership announcement

Hello Gerald

Since Lee White announced he would step down as our CEO we have been searching for his replacement. I'm delighted to let you know that Rick Ellis will join us as CEO on 31 July 2017.

Rick is currently CEO of the National Museum of New Zealand Te Papa Tongarewa in Wellington where he turned around one of New Zealand's most important tourism destinations. Prior to that he was Group Executive Telstra Media, based in Sydney and CEO of Television New Zealand based in Auckland. We are really excited to attract someone of Rick's reputation and calibre to our organisation.

He graduated with a BCom from the University of Auckland in 1976 and has had a career in the IT industry in senior executive roles, where he worked for US multinationals for over 25 years in Australia, the UK and New Zealand.

His diverse global industry experience as a senior leader, CEO or board director in IT and Digital, Airlines and Tourism, Television and Media and more recently in the Cultural Sector, will be of enormous value to us as we focus on continuing to create a dynamic future for the profession. Prior to Rick joining, Simon Grant, Head of Members, will act as Interim CEO.

Kind regards,

Murray Jack FCA
Chair

Cassandra Crowley FCA
President

Note 2

Extracts from accounts for Museum of New Zealand Te Papa Tongarewa

Illustration of selective disclosure which highlight beneficial outcomes and hides unsatisfactory results (ie "inconvenient" comparative figures have been omitted from the 2015 and 2016 reports)

2015 Accounts

	2015	2014	Change	%
Visitors - Museum	1,556,164	1,289,353	266,811	20.7
Visitors - Domestic Touring	<u>157,511</u>	<u>189,524</u>	<u>(32,013)</u>	<u>(16.9)</u>
Total visitors (exc overseas and digital)	1,713,675	1,478,877	234,798	15.9

Comparative for touring not disclosed, thus hiding drop of 16.9%
Reported increase of 20.7% exaggerates true increase (of 15.9%) by 30%

2016 Accounts

	2016	2015	Change	%
Visitors - Museum	1,784,934	1,556,164	228,770	14.7
Visitors - Domestic Touring	<u>77,715</u>	<u>157,511</u>	<u>(79,796)</u>	<u>(50.7)</u>
Total visitors (exc overseas and digital)	1,862,649	1,713,675	148,974	8.7

Comparative for touring not disclosed, thus hiding drop of 50.7%
Reported increase of 14.7% exaggerates true increase (of 8.7%) by 69%

Note that the accounts for 2014 fully disclose all relevant comparatives